

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

MARGARET KENNEDY, et al.,

Plaintiffs,

v.

ABB, INC., et al.,

Defendants.

CIVIL ACTION  
No. 06-CV-04305

(Judge Nanette K. Laughrey)

**FIDELITY DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' AMENDED  
COMPLAINT FOR BREACH OF FIDUCIARY DUTY**

Defendants Fidelity Management & Research Company ("FMRCo") and Fidelity Management Trust Company ("FMTC") (collectively the "Fidelity Defendants") respectfully move this Court for an order pursuant to Fed. R. Civ. P. 12(b)(6), dismissing Plaintiffs' Amended Complaint for Breach of Fiduciary Duty for the reasons set forth in the accompanying Suggestions in Support of Fidelity Defendants' Motion to Dismiss Plaintiffs' Amended Complaint for Breach of Fiduciary Duty and granting such other and further relief as the Court deems just and proper.

Dated: August 3, 2007

Respectfully submitted,

BY: /s/ Shannon M. Barrett

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of August, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

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|---|---|
| <p>Jerome J. Schlichter<br/>Daniel V. Conlisk<br/>Heather Lea<br/>Schlichter, Bogard &amp; Denton<br/>100 South 4th Street, Suite 900<br/>St. Louis, MO 63102</p> <p><b>Attorneys for Plaintiffs</b></p>  | <p>Brian T. Ortelere<br/>William J. Delany<br/>Catherine A. Cugell<br/>Morgan, Lewis &amp; Bockius, LLP<br/>1701 Market Street<br/>Philadelphia, PA 19101-2921</p> <p><b>Attorneys for Defendants ABB Inc., John W. Cutler, Jr., Pension Review Committee of ABB Inc., Pension &amp; Thrift Management Group of ABB Inc., and the Employee Benefits Committee of ABB Inc.</b></p> |
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/s/ Shannon M. Barrett

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